IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1064 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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S RAVI NARAYANAN

Versus

STATE OF GUJARAT

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Appearance:

1. Criminal Misc.Application No. 1064 of 2001

MR MM TIRMIZI for Petitioner No. 1

MR BD DESAI, APP for Respondent No. 1

MR PRAFULL K PATHAK for Respondent No. 2

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CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 20/11/2003

ORAL JUDGEMENT

1. The petitioner is an original accused of complaint/offence registered at C.R. No. I - 589 of 2000 of the Jamnagar City "B" Division Police Station. The said complaint has been filed by one Yogeshbhai, son of G.M. Reddy, who is respondent no. 2 herein. It is alleged in the complaint that during the period from January 1999 till the date of the filing of the complaint i.e. 15th October, 2000 the present petitioner, while he was in employment of the complainant's concern, he alongwith original accused K. Satyamurthy, had committed theft of five items, namely (1) Colour Television - 3 in number of the value of Rs.12,480/=, (2) Sony Codeless Phone - 2 in number of the value of Rs.6,283/=, (3) BPL Audio Tape recording - 16 nos. of the value of Rs. 38,670/=, (4) Whirlpool Refrigerator - 3 in number of the value of Rs.28,492/= and (5) Stabilizers - 8 in number of the value of Rs.4,112/=. It is further alleged that these items were stolen by the petitioner and the co-accused during the period between January 1999 upto 15th October, 2000. It may be noted here that on 9th September, 1999 this very complainant in the capacity of the authorized officer of Western Electronics and Home Appliances had filed a complaint against present petitioner and co-accused in respect of the goods which have been mentioned above, except slight difference that in this complaint the colour T.V. alleged to have been stolen is shown as 6 in number of the value of Rs.92,480/=; whereas in the subsequent complaint it has been stated as 3 colour T.V. of the value of Rs.12,480/-. Except that, the other details of the stolen articles completely tally with each other. In the subsequent complaint which has been filed before the police, no mention has been made about the complaint which was filed on 9th Sept. 1999. The subsequent complaint is filed as late as on 15th October, 2000. It is clear from the contents of both the complaints that they are in respect of the same articles and during the same period and while they were in custody of the petitioner as an employee of Western Electronics & Home Appliances.

2. Heard Mr. Tirmizi, learned advocate for the petitioner, Mr. B.D. Desai, Ld. APP for the respondent no. 1 - State and Mr. Pathak, learned advocate for the respondent no. 2. According to Mr. Tirmizi, two complaints for same offence cannot be allowed to stand and one of them is required to be quashed.

3. This Court has rendered judgment in the case of Manharlal Bhagwan Modi & anor v/s. State of

Gujarat & anor. in Criminal Misc. Application No. 1368 of 1987 dated 3/12/1991 [Coram : B.C. Patel, J.] in which two complaints in respect of the same subject matter came to be filed before two different police stations. The Ld. Judge held that when the Police Officer is already seized of the investigation and busy in conducting the same, there is no point in making other Police Officer busy with the investigation in respect of the same accusation made against the common accused. The learned Judge has further observed that in such circumstances one of the complaints is required to be quashed. Naturally it would be the subsequent complaint which will have to be quashed. In the present case, it appears from the endorsement made below the complaint that it is ordered to be sent to the Police Inspector, Jamnagar City "B" Division Police Station for inquiry u/S. 202 of the Code of Criminal Procedure. It is, therefore, clear that the police of that police station is already seized of the investigation in respect of the common allegations which have been made in both the complaints against common accused. The subsequent complaint, therefore, cannot be allowed to stand. In these circumstances, it is ordered that the complaint registered at C.R. No. I-589 of 2000 with the Jamnagar City "B" Division Police Station is quashed. Rule made absolute.

[ AKSHAY H. MEHTA, J.]

* Pansala.